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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/620,098

07/14/2003

Luis M. Ortiz

1000-1306

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02/02/2010

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EXAMINER

SELBY, GEVELL V

ART UNIT

PAPER NUMBER

2622

MAIL DATE

DELIVERY MODE

02/02/2010

PAPER

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RECORD OF ORAL HEARING
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LUIS M. ORTIZ

Appeal 2009-007155
Application 10/620,098
Technology Center 2600

Oral Hearing Held: January 12, 2010

Before KENNETH W. HAIRSTON, JOSEPH F. RUGGIERO and
KEVIN F. TURNER, Administrative Patent Judges

ON BEHALF OF THE APPELLANT:

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1 The above-entitled matter came on for hearing on Tuesday,
2 January 12, 2010, commencing at 2:03 p.m., at the U.S. Patent and Trademark
3 Office, 600 Dulany Street, East Wing, 9th Floor, Hearing Room A,
4 Alexandria, Virginia, before Jan Jablonsky, Notary Public, in and for the
5 Commonwealth of Virginia.

6 JUDGE HAIRSTON: Counsel, do you have your business card
7 with you?

8 MR. ORTIZ: Absolutely.

9 JUDGE HAIRSTON: I don't want to misspell your name for the
10 record. Thank you. You may begin.

11 MR. ORTIZ: I want to thank the Board for giving me your time
12 today. I'm the Applicant on the current case. This is my law partner and also
13 co-Applicant on some other cases that are part of the family here. I think we
14 have about eight or ten cases filed, and three have issued into patents that are
15 in this space.

16 The one in front of us today has to deal with synchronized
17 cameras in the sports venue. If I can give just a brief introduction into how
18 that all came into being.

19 It really occurred in 2003 when I attended a boxing match with
20 my father, and there were camera men around the boxing arena because it was
21 being broadcast. Sometimes the camera men would get in our way, we could
22 not see the match.

23 Already being one skilled in the art and having applications on
24 file for sports venue applications, it made sense that maybe remote cameras
25 would work in this scenario, once the problem was identified.

1 It didn't really occur as a problem before then because in sports
2 venues and concert arenas, it was a much bigger environment, so
3 synchronized cameras just wouldn't make sense. It wouldn't be common
4 sense or you wouldn't be inspired to do so until you recognize the problem.

5 In a closer environment, such as this one, it really made sense at
6 that point.

7 I think Figures 28 to 31 best illustrate that situation, where in 28
8 you see the boxing arena, you see the master camera on top, cameras
9 deployed around that activity. The intention is to broadcast this as with our
10 other applications and some that have issued, which would be digital data. It
11 would be processed through a server, sent through a wireless network, maybe
12 to a remote viewer such as your high definition television at home or to
13 wireless hand held devices that are also digital within the venue. That could
14 include going through the cellular network, 3G.

15 The issues in front of us are basically whether the claims are
16 obvious under Anderson in view of Paff. We focus on Claims 1, 33, and 65
17 because those are the independent claims.

18 Just to overview Anderson and Paff quickly, Anderson is purely
19 an analog teaching. It talks about combiners, filters, audio, signal
20 conditioning circuits. The interface, as referenced therein, is an analog
21 apparatus. It's not a server.

22 The Examiner does want to call that a server. However, our
23 definition of "server" in our specification starts on page 33 and in various
24 places throughout the specification, it mentions its venue data that the server
25 processes, and can include other things such as real time historical statistics,

1 purchasing and merchandise, concession information, advertisements.

2 JUDGE HAIRSTON: Did you argue this in your Brief, about
3 the server?

4 MR. ORTIZ: The server, yes, sir; I did. It's in the brief that
5 Anderson does not teach a server and a server is what we utilize.

6 What he references as Figure 2 in Anderson, if you look at that,
7 it has audio combiners, signal modulars and signal combiners. Perhaps that
8 would be a card that you married with a server, but it would not be the server.
9 This is all analog signal conditioning and circuitry.

10 JUDGE TURNER: You said on page 33, I'm assuming line 15,
11 it says "For example, a server or other computer system can be integrated
12 with a wireless network."

13 MR. ORTIZ: Right.

14 JUDGE TURNER: That seems like a fairly broad recitation, so
15 it wouldn't have to be a server as I perhaps might use that term of art, it could
16 be any computer system, I would think.

17 MR. ORTIZ: The intention here is that the server be networked
18 with wireless communications, and that's how we show it in Figures 5 through
19 8, if you look at our diagrams. The server serves data through a network.
20 You can have a wireless gateway.

21 The enterprise equipment would be what you would find in a
22 typical wi-fi environment or a cellular network environment where you have
23 wireless gateways, you have servers that process the information, format like
24 an MPEG format. The format is needed for video via server. At the time, that
25 would have been an MPEG standard.

1 JUDGE TURNER: I guess my question would be if it's a
2 computer system, let's say I have Bluetooth and I'm communicating between
3 my computer with the wireless network, it's just a computer, would your
4 claim server, would it read on that as well?

5 MR. ORTIZ: What we claim and what we describe as a server --
6 well, a computer can be used as a server. The server has to process the data
7 for a network. There are different classes of servers. It could be a small
8 desktop kind of server, a regular PC computer can be a server, or it could be a
9 large scale server.

10 I'm sorry. I'm not really understanding. It's a computer
11 nevertheless. Anderson does not teach a computer. It teaches a signal
12 conditioning circuit.

13 JUDGE TURNER: Right. I assume since this is an obviousness
14 type rejection, it doesn't have to necessarily demonstrate a server, but maybe
15 the combination of the references could suggest a server.

16 I guess what I'm trying to tease out is what Appellant's definition
17 of "server" is, if "server" can be any computer system or is it the classical
18 definition of a "server," perhaps where more than one user is served
19 information, which would be sort of the classical definition of a "server."

20 MR. ORTIZ: It would be the latter. It is intended to serve
21 several users as opposed to the security system in Paff, which is really
22 intended to keep it secure and only serve a security operator.

23 JUDGE HAIRSTON: The interface unit in Anderson serves
24 quite a few receivers, if you look at Figure 1.

25 MR. ORTIZ: It does, and it does it as an analog broadcast to

1 receivers that receive an analog. It can't do more than serve analog video. It
2 doesn't do it in the digital format. It doesn't serve statistical information. It
3 doesn't allow some of these other features that our server as we define it and
4 describe it does.

5 Also, neither Paff nor Anderson teach a server.

6 JUDGE TURNER: I'm not sure that in view of the Federal
7 Circuit's decision in LeapFrog that perhaps analog versus digital is your best
8 means of distinction, but I'm not going to disagree with your argument.

9 MR. ORTIZ: I don't want to just totally focus on the server.
10 There are some factual errors and legal errors. The factual errors are on the
11 server, but also that Anderson does not really teach that environment that
12 would give one skilled in the art like me the motivation to incorporate
13 master/slave cameras into an entertainment venue.

14 What we are talking about is two non-analogous arts. We are
15 talking about entertainment video to be broadcast to the masses, first as
16 security video. The only link really is video, but the security application in
17 Paff is only to monitor a premises.

18 JUDGE TURNER: Both have multiple cameras; right?

19 MR. ORTIZ: They both have multiple cameras but there's two
20 different applications, where you are talking about video for security
21 surveillance in a closed environment, not broadcast, not available to the
22 public, versus an application where the intent is for the public to have access
23 to the video.

24 Also, Anderson again doesn't show that environment where you
25 would really want to apply a master slave environment, it wouldn't be

1 something that would motivate one skilled in the art to do so in the large scale
2 environment.

3 The problem did not surface and it wasn't readily apparent to me
4 in Anderson, it wasn't calling for the need of synchronized cameras, I
5 suppose, until the problem surfaced in 2003, which is three years after our
6 initial filing, when I went to this boxing match with my father.

7 JUDGE TURNER: Why couldn't the motivation simply come
8 out of Paff, saying where you only see one side of a person, you know, having
9 multiple views is actually beneficial, why wouldn't one ordinarily skilled in
10 the art take that teaching and say, you know, that type of benefit could benefit
11 other types of video presentation?

12 MR. ORTIZ: Like in entertainment venues?

13 JUDGE TURNER: Sure.

14 MR. ORTIZ: Well, Paff is dated 1991, I guess. Anderson is
15 1999. It hadn't been done in all that time. After Anderson, it still hadn't been
16 done until 2003. It's not really described anywhere that you would want to
17 have synchronized cameras in an entertainment venue to supply video to the
18 masses.

19 Plus, Anderson couldn't do it without a server anyhow. It's not
20 teaching a server. It's not teaching synchronized cameras. It's not setting up
21 the environment to practice our invention.

22 As far as legal considerations, I do feel Anderson and Paff are
23 non-analogous. There is the video tie, certainly, but they are in two different
24 fields of application. You're talking security versus entertainment.

25 It seems that our claims are kind of used as a road map to

1 combine the two and arrive at the obviousness rejection.

2 I think just a clear definition of what a “server” is, even with
3 Merriam-Webster Dictionary, or what “synchronized” means, those aren't
4 clearly taught by Anderson and “server” isn't taught by Paff or Anderson.

5 Without those things, it doesn't seem that the obviousness burden
6 has been met.

7 JUDGE HAIRSTON: Any other issues?

8 MR. ORTIZ: Let me make sure.

9 (Counsel conferring with co-counsel.)

10 MR. ORTIZ: I think we have covered that, the non-analogous
11 arts, one in security and one in entertainment.

12 I believe that's all. I appreciate the Board's time again.

13 JUDGE HAIRSTON: Thank you, counsel.

14 MR. ORTIZ: Okay. Thank you.

15 Whereupon, at 2:16 p.m., the proceedings were concluded.

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